

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE METRO GANG STRIKE FORCE ADVISORY BOARD

In the Matter of Jermaine Booker

**FINDINGS OF FACT,  
CONCLUSIONS AND DECISION**

The Metro Gang Strike Force Advisory Board (Advisory Board) has directed the League of Minnesota Cities Insurance Trust (LMCIT) to pay equitable claims filed against the Metro Gang Strike Force (MGSF) by persons whose property or currency was seized but not properly forfeited. The Advisory Board and LMCIT have established a process whereby claimants may seek administrative review of the record or, in the alternative, an administrative hearing to appeal the denial of a claim. Jermaine Booker (Claimant) requested a record review on December 9, 2009. LMCIT provided its claim file on December 15, 2009. The matter came before Administrative Law Judge Manuel J. Cervantes on February 11, 2010, pursuant to a Notice of Review Without Hearing, dated January 21, 2010.

**STATEMENT OF ISSUE**

Should currency seized from the Claimant by the MGSF be returned to the Claimant?

The Administrative Law Judge concludes that the MGSF used appropriate legal processes to forfeit the funds seized from the Claimant and that no additional payments from the LMCIT are due to Claimant.

Based upon the record in this matter, the ALJ makes the following:

**FINDINGS OF FACT**

1. On January 16, 2008, the Ramsey County SWAT team and the MGSF executed a search warrant at [STREET ADDRESS REDACTED]. Saint Paul, Minnesota. At that time, the Claimant was living at that address and was present with his girlfriend when the search warrant was executed. The warrant included the Payne Avenue address, the Claimant, and two other individuals.<sup>1</sup>

2. During the search, MGSF officers seized certain property, currency and contraband, including a laptop computer; \$1,913.00 in currency found in the northwest

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<sup>1</sup> Minnesota Gang Strike Force, Report of Investigation, Investigator Mike Servatka; see also Application for Search Warrant and Supporting Affidavit.

bedroom; a box of baggies; Western Union paperwork; two cell phones; a digital scale; and a small quantity of marijuana found in the south bedroom with a glass pipe. The amount of marijuana that was found is unclear from the record. The property and currency were inventoried and placed in the MGSF property room.<sup>2</sup>

3. The Claimant was arrested and taken to the law enforcement center, where he was booked for Possession with Intent to Sell Narcotics.<sup>3</sup> The Claimant was not charged with any crime, however, as a result of the investigation or execution of the search warrant.<sup>4</sup>

4. The Claimant made numerous requests to the MGSF for return of the property and currency. The MGSF did not respond to the Claimant's inquiries.<sup>5</sup>

5. Approximately six months after his property was seized, the Claimant was jailed for a probation violation in an unrelated matter.<sup>6</sup>

6. On July 28, 2008, the MGSF served Claimant with a Notice of Seizure and Intent to Forfeit Property. The Notice advised Claimant that the \$1,923.00 in currency seized from him would be forfeited automatically unless the Claimant demanded a judicial determination under Minn. Stat. § 609.5314, subd. 3.<sup>7</sup>

7. On September 25, 2008, the Claimant demanded a judicial determination in Ramsey County Conciliation Court.<sup>8</sup> Before the matter came on for hearing, the Claimant requested an 18-month continuance of the forfeiture proceeding because of his incarceration. On December 4, 2008, the Conciliation Court Manager denied the request for a continuance. He stated in the letter denying the request:

You have requested a continuance of more than 18 months and we are unable to do this. A Minnesota Correctional Facility will not transport you on the basis of a Conciliation Court matter. I would suggest you contact an attorney for legal advice and/or representation on this matter. Alternatively, you may contact the prosecuting attorney handling this matter and attempt to reach a settlement. If this is not possible, they may agree to continue the case as you have requested. If both parties agree to the length of the continuance, the clerk's office will reset the matter until after your incarceration has expired.<sup>9</sup>

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<sup>2</sup> Minnesota Gang Strike Force, Report of Investigation, Investigator Mike Servatka; *see also* Evidence Inventory; Receipt, Inventory and Return; Seized Evidence Currency Log; and Evidence Receipt.

<sup>3</sup> Minnesota Gang Strike Force, Report of Investigation, Investigator Mike Servatka.

<sup>4</sup> LMCIT Public Claim Report.

<sup>5</sup> LMCIT Public Claim Report.

<sup>6</sup> LMCIT Public Claim Report.

<sup>7</sup> Notice of Seizure and Intent to Forfeit Property.

<sup>8</sup> See Register of Actions, Case No. 62-CO-08-4011.

<sup>9</sup> Letter from Michael Upton to Claimant dated Dec. 4, 2008.

8. There is no evidence in this record that Claimant contacted an attorney for advice or contacted the prosecuting attorney as recommended by the Conciliation Court Manager. On December 22, 2008, the Claimant failed to appear at the scheduled conciliation court hearing. The forfeiture action was dismissed without prejudice on that date.<sup>10</sup>

9. The Claimant filed a claim with LMCIT on October 29, 2009, alleging the property and currency seized amounted to a loss of \$3,500. He alleged that the MGSF gave him improper notice of the forfeiture because he was in jail when he received it and was unable to participate in the forfeiture proceeding.<sup>11</sup>

10. LMCIT offered to pay the Claimant \$500 for the cell phones and laptop that were seized on January 16, 2008, and the Claimant agreed to accept this sum as compensation for this property. LMCIT denied his request for return of the currency.<sup>12</sup>

11. On December 9, 2009, the Claimant requested administrative review of LMCIT's denial of his claim for reimbursement of the currency. The Claimant requested that the review be conducted on the record, without a hearing.<sup>13</sup>

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. § 14.55 and the Resolution of the Metro Gang Strike Force Advisory Board, approved September 16, 2009.<sup>14</sup>

2. The Metro Gang Strike Force used the appropriate legal processes to forfeit the funds seized from the Claimant on January 16, 2008, and no additional payment from the LMCIT is required.

Based on the foregoing Conclusions, the Administrative Law Judge makes the following:

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<sup>10</sup> Register of Actions, Case No. 62-CO-08-4011.

<sup>11</sup> Public Claim Report.

<sup>12</sup> Notice of Appeal.

<sup>13</sup> Notice of Appeal.

<sup>14</sup> See Minutes, Metro Gang Strike Force Advisory Board Meeting, Sept. 16, 2009.

## DECISION

The LMCIT need make no further payment on the claim asserted by the Claimant.

Dated: March 10, 2010

s/Manuel J. Cervantes  
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MANUEL J. CERVANTES  
Administrative Law Judge

## NOTICE

Pursuant to a resolution dated September 16, 2009, the Advisory Board and LMCIT have agreed to be bound by the ALJ's decision in this matter. This decision is not binding in any way on the Claimant, and by pursuing this administrative review, the Claimant has lost no legal right or remedy. The Claimant may bring an action in any court with jurisdiction over the claim asserted herein.

## MEMORANDUM

The record reflects that the MGSF seized \$1,923.00 in currency from the Claimant while executing a search warrant at his residence. Marijuana, baggies, and a digital scale were also seized from the residence. All money found in proximity to controlled substances, or drug distributing equipment or devices, is presumed to be subject to administrative forfeiture.<sup>15</sup> The MGSF gave the Claimant notice of its intent to seize the currency, and the Claimant initiated an action to obtain its return in Ramsey County Conciliation Court. The action was dismissed without prejudice after the Claimant failed to appear at the forfeiture hearing. A dismissal without prejudice means that the Claimant may re-file the same claim at a later time, provided it is done within the appropriate statute of limitations period.

The Claimant argues that because he did not receive the Notice of Forfeiture until more than six months after the seizure, at a time when he was incarcerated for an unrelated probation violation, he was unfairly deprived of the opportunity to participate in the conciliation court action. Minn. Stat. § 609.5314, subd. 2, provides in relevant part:

When seizure occurs, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and of the intent to forfeit the property.

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<sup>15</sup> See Minn. Stat. § 609.5314, subd. 1.

Whether the Strike Force provided reasonable notice to the Claimant of its intent to forfeit the currency is a question that must be addressed by the court in the forfeiture action. There is nothing in this record that indicates that Claimant raised this issue in the Conciliation Court matter. The LMCIT has paid the Claimant for his personal property and MGSF invoked the appropriate legal process to seize the currency. No further payment from the LMCIT is appropriate.

**M. J. C.**